APPEAL NO. 033018
FILED JANUARY 5, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on October 15, 2003. The hearing officer resolved the disputed issue by deciding that the claimant's impairment rating (IR) was 9%. The appellant (claimant) appealed, arguing that the 23% IR assessed by her treating doctor was the correct IR. The claimant argues that the great weight of the other medical evidence was contrary to the findings of the designated doctor. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed as reformed.

The parties stipulated that the claimant reached maximum medical improvement on April 24, 2002. The claimant testified and the medical records relate that she sustained an injury to her right lower extremity. The evidence reflected that the Texas Worker's Compensation Commission (Commission)-selected designated doctor in an amended report dated December 30, 2002, assessed that the claimant had a 9% IR using the Guides to the Evaluation of Permanent Impairment, fourth edition (1st, 2nd, 3rd, or 4th printing, including corrections and changes as issued by the American Medical Association prior to May 16, 2000). The claimant's treating doctor certified that the claimant had an IR of 23% on April 24, 2002. In his report, the designated doctor noted that the range of motion deficits were not found to be valid for the purposes of calculating an impairment rating. The designated doctor further observed that the measurement details are not consistent with the pathology noted on physical examination, review of the medical history, or diagnostic testing. Also in evidence was a report dated June 5, 2001, in which the doctor who performed an independent medical examination at the request of the carrier noted that the claimant had a marked voluntary restriction and that there was no significant calf or thigh atrophy.

Section 408.125(e) provides that the report of the designated doctor shall have presumptive weight and the Commission shall base the IR on that report unless the great weight of the other medical evidence is to the contrary. Whether or not the great weight of the other medical records overcomes the presumption that the designated doctor's certification is correct is a question of fact for the hearing officer to resolve. In the instant case, the hearing officer found that the presumptive weight afforded the opinion of the Commission-selected designated doctor is not overcome by the great weight of the other medical evidence. Nothing in our review of the record indicates that this determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986).

The claimant correctly points out that the hearing officer failed to list Dr. M as a witness. It is clear that the hearing officer considered the testimony for Dr. M in reaching her decision because Dr. M's testimony is specifically referenced in her Statement of the Evidence. The asserted error is a clerical error. Accordingly, we reform the hearing officer's decision to reflect that Dr. M testified as a witness for the claimant.

We affirm the decision and order of the hearing officer as reformed.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.

_____
Margaret L. Turner
Appeals Judge

CONCUR:

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Gary L. Kilgore
Appeals Judge

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Thomas A. Knapp
Appeals Judge